

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN DOE
Plaintiff/Counterclaim Defendant,

Case No. 4:23-cv-01312-SEP

vs.

LESLIE SUTTON

Defendant/Counterclaim Plaintiff

PLAINTIFF/COUNTERCLAIM DEFENDANT JOHN DOE'S
MOTION TO STRIKE ATTORNEY FEES

Comes now Plaintiff /Counterclaim Defendant Doe, by and through undersigned counsel, and for his Motion to Strike Attorney's fees states to the court as follows:

DISCUSSION

Missouri courts have long followed the "American Rule" regarding the right of a party to recover attorney's fees from another party. Generally, absent statutory authorization or contractual arrangement, each litigant must bear the expense of his own attorney's fees. *Mayor, Councilmen & Citizens, Etc. v. Beard*, 636 S.W.2d 330, 331 (Mo. banc 1982); 66, *Inc. v. Crestwood Commons Redevelopment Corp.*, 130 S.W.3d 573, 594 (Mo. App. E.D. 2003). The generally recognized exceptions to the rule are: (1) fees authorized by contract or statute, (2) fees incurred due to involvement in collateral litigation, and (3) fees awarded when a court of equity finds it necessary to

award them in order to balance benefits. *Memco, Inc. v. Chronister*, 27 S.W.3d 871, 877 (Mo. App. S.D. 2000).

Here, Defendant/Counterclaim Plaintiff requests that attorney's fees be awarded for each of her counterclaims: (1) defamation, (2) disclosure of private facts, (3) false light, (4) intentional infliction of emotional distress, and (5) negligent infliction of emotional distress. Each of the following are common law tort claims, and Missouri courts have consistently held that attorney's fees are not recoverable in common law tort actions unless there is a specific statutory or contractual provision that allows for such recovery. *See AEFC, Inc. v. Vietti*, S.W.3d 90 (Mo.App.S.D. 2020). Defendant/Counterclaim Plaintiff has not pleaded and may not properly plead that any exception to the general "American Rule" applies. Under the well-established American Rule, Defendant/Counterclaim Plaintiff's request for attorney's fees for the prosecution of the various claims alleged against Plaintiff/Counterclaim Defendant are improper and should be stricken from her Counterclaim Complaint.

CONCLUSION

Based on the foregoing, Plaintiff/Counterclaim Defendant Doe respectfully request that the Court GRANT his Motion and strike Defendant/Counterclaim Plaintiff's request for attorney's fees for each of her counterclaims.

Respectfully Submitted,

OTT LAW FIRM

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CERTIFICATE OF SERVICE

I caused a copy of the forgoing to be served upon all counsel of record this 18th Day of April 2025 through electronic mail.

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